Court No. 2

In The High Court of Uttaranchal at Nainital.

First Appeal From Order No. 273 of 2001.
(Old No. 526 of 1990)

Oriental Insurance Company Ltd.
Dehradun Road, Rishikesh,
District-Dehradun. ..... Opp.party No.2/Appellant.

Versus

(1)Smt. Pushplata Sharma Widow of
late Tarseem Lal Sharma,
(2)Km.Sona
(3)Km.Mona,
(4)Km. Seema,
(5)Km.Meena,
(6)KM.Rosy
all minor daughters of late Tarseem Lal Sharma.
..... Claimants/Respondents.
(7)G.S.Chauhan,
(8)Hari Singh S/o Dayal Singh
..... Opp.Party Nos. 1 & 3/ Respondents.

WITH
First Appeal From Order No. 1135 of 2001.
(Old No. 1099 of 1990)

G.S. Chauhan S./o Sri Sher Singh
R/o Opposite Police Station,
Rishikesh-Dehradun Road, Rishikesh
District-Dehradun
..... Opp. Party No.1/Appellant.

Versus

(1)Smt. Pushplata Sharma Widow of
late Tarseem Lal Sharma,
(2)Km. Sona,
(3)Km. Mona,
(4)Km. Seema,
(5)Km.Meena,
(6)KM.Rosy
all minor daughters of late Tarseem Lal Sharma.
..... Claimants/Respondents
(7)Oriental Insurance Company Ltd.,
(8)Hari Singh S/o Dayal Singh
..... Opp.Party/ Respondents

Sri T.A. Khan Advocate for the appellant/Insurance Company.
Sri S.N. Babulkar Advocate for the appellant-G.S. Chauhan,
Sri T.Fartiyal and Sri R. Joshi Advocates, for claimants-respondents.

.....

Dated: 13th Aug. 2004,

Hon'ble P. C. Verma, J.
Hon'ble B.S. Verma, J.

These appeals have been filed by the Oriental Insurance Company and owner of the vehicle in question respectively against the judgment and award dated 09.02.1990 passed by Motor Accident Caims Tribunal/Additional Distirct Judge, Dehradun in Motor Accident Claim Case No. 237 of 1986, by which the Tribunal has awarded Rs. 4,75,000/- as compensation with costs. The Tribunal has further ordered that the liability of Opp. Parties Nos. 1 to 3 including Insurance Company shall be joint and several.

Brief facts giving rise to the present appeal are that on 19.5.1986, at about 10.00 p.m. deceased T.L. Sharma was going on his Motor Cycle UTL 7847 from Chiddarwala to Rishikesh and Vikram Three-wheeler bearing registration No. URM 8860 owned by O.P.No.1 and driven by O.P.NO.3 Hari Singh during the course of his employment, came form the opposite side on the said road from Rishikesh to Chiddarwala. The said Vikram Three-wheeler dashed against the Motor cycle of the deceased at 10.P.m., as a result of which, T.L. Sharma fell down and received grievous injuries and died on the spot.

The dispute raised in both these appeals is that bifurcation of the amount of compensation was not made according to the policy under the Old Act. Thus, the dispute remains to be settled in between insured and insurer.

Both these appeals are allowed. The case is sent back to the Motor Accident Claims Tribunal concerned who shall release the entire amount in favour of the claimants

and thereafter shall decide the liability in between the insured and insure after issuing the notice to the owner of the vehicle in question and Insurance Company within three moths form the date of receipt of the record.

Both these appeals are disposed of accordingly.

(P.C. Verma, J.) **(B. S. Verma, J.)**

P.Singh